

## **CUP BASIS OF REVIEW CHANGES:**

### **2.7 Diversion and Impoundment**

#### **2.7.1. Scope and Intent:**

This section contains criteria for calculating the allocation for diversion and impoundment systems and the criteria for users within diversion and impoundment systems to obtain consumptive use rights.

A diversion and impoundment permit is required for projects, excluding District operated facilities, that divert surface water through a pump or operable water control structure, or divert a combination of surface and ground water to a conveyance canal network system which the applicant has legal control to operate and maintain for the purposes of providing for the reasonable - beneficial demands of secondary users and non-consumptive uses.

Users of surface water, maintained through operation of a diversion and impoundment system, are considered secondary users of the diversion and impoundment system. The District recognizes dependent and independent secondary users as the two categories of surface water users within a diversion and impoundment system that may attain water rights through the permitting process. The distinction between these two categories is related to the manner in which the secondary user attains its water right. Unless exempt, such secondary users must obtain a consumptive use right through an independent permit or by incorporation into the agreement with a diversion and impoundment permittee. Criteria for each of these methods are set forth below.

#### **2.7.2 Demand Calculation for Diversion and Impoundment system:**

Reasonable demand calculations for diversion and impoundment systems will be based on the following factors: the extent (length, cross sections, and depth) of the canal network used to deliver the water associated with the diversion and impoundment operation, land use classifications within the area served by the diversion and impoundment system, surface water demands directly withdrawn from the diversion and impoundment system, seepage losses, water necessary to maintain groundwater elevations for the purpose of aquifer recharge and saltwater intrusion prevention, evaporation losses from the canal surfaces, and established control elevations during 1 in10 year drought events.

For permit renewals in which no changes are proposed over historic operations, the demands may be determined from historic pumpage records,

consistent with the criteria in section 1.7.3.1. For modifications where the proposed allocation is increasing, the demands shall be determined with the use

of models consistent with the criteria in section 1.7.3.2. and using the applicable efficiency and conservation measures for each use type served by the project while considering cycling of water from project to project within the system.

In addition to the requirements of RC-1W, diversion and impoundment permit applicants must submit: (1) a map identifying all secondary users of their system, including irrigated acreage and land use type. Upon permit modification, this map must be updated to reflect changes in secondary users of the diversion and impoundment system. (2) copies of the agreements executed with dependent secondary users pursuant to 2.7.3.A.

### **2.7.3 Conditions of issuance for Secondary Users of a Diversion and Impoundment System**

A. Dependent Secondary Users are users of surface water from a diversion and impoundment system and have elected to obtain their water right through a diversion and impoundment permittee's permit, as evidenced by a legal agreement in compliance with the following:

- (1) agreement that the secondary user will comply with water shortage restrictions imposed by District rule or order issued pursuant to Chapter 40E-21, F.A.C.,
- (2) agreement that the secondary user will comply with all applicable water conservation standards required in the diversion and impoundment permit;
- (3) agreement that the secondary user will notify the diversion and impoundment permittee of any changes in water use demands or sources;
- (4) agreement that the secondary user will continue to evaluate the feasibility of using reclaimed water in accordance with the requirements contained within the diversion and impoundment permit;
- (5) agreement that the secondary user will mitigate harm to the resources or existing legal uses caused by the secondary user; and
- (6) notification to the secondary user that any violation of the diversion and impoundment permit terms caused by the secondary user will be the responsibility of the secondary user to correct and may subject the secondary user to enforcement action by the District pursuant to Chapter 373, F.S.

B. Independent Secondary Users: Are users of surface water from a diversion and impoundment system, and have obtained their water right through a separate consumptive use permit from the District. The District will utilize the

applicable demand calculation criteria for the use class associated with the secondary use to determine the proposed project's demand, contained in the Basis of Review. Resource impact evaluations must be conducted as required by Section 3.0 of the Basis of Review. In addition, the requested allocation must be consistent with the diversion and impoundment permit as evidenced by demonstration of legal access to the diversion and impoundment system and that the proposed secondary use will not cause the diversion and impoundment permittee to exceed its permitted allocation.

In addition to the requirements of RC-1W, independent secondary user permit applicants must submit a map identifying their system's location, irrigated acreage, and land use type. Upon permit modification, this map must be updated to reflect changes in use of the diversion and impoundment system.

**IMPACT TO EXISTING LEGAL USER BOR CRITERIA 3.7:**

**3.7.**

**B. Definition of Interference with Presently Existing Legal Use:**

~~Interference to a presently existing legal use is defined as an impact that occurs under hydrologic conditions equal to or less severe than a 1 in 10 year drought event that results in the:~~

~~(XX) inability of a presently existing user to meet their permitted demands without exceeding their permitted allocation.~~

3.7 is proposed for deletion due to existing proposed language in 3.7 B. (1)

**5.0 LIMITING CONDITIONS:**

**1. L.C. FOR INDEPENDENT SECONDARY USER PERMITS:**

The permittee must advise the diversion and impoundment permittee prior to applying to the District for a proposed change in surface water allocation from the diversion and impoundment system.

**2. L.C. FOR DEPENDENT SECONDARY USERS --- TO BE PLACED ON THE D & I PERMIT:**

## Diversion and Impoundment Rule Draft

January 10, 2003-- Edit codes reflect changes from Dec. draft.

#. The Dependent secondary users listed herein must advise the District and the diversion and impoundment permittee prior to any change in demands.

##. The diversion and impoundment system permittee is responsible for all violations of diversion and impoundment permit terms, except those violations caused by the dependent secondary users. Independent secondary users are responsible for complying with the conditions of their permit.

###. Within 90 days of the diversion and impoundment permittee agreeing to the inclusion of a dependent secondary user consistent with the requirements in 2.7.3.A. the diversion and impoundment permittee is responsible for submitting a request for a permit modification to the District to include the dependent secondary user.

### \* ~~ADD TO APPLICATION SUBMITTAL REQUIREMENTS:~~

~~1. Diversion and impoundment permit applicants must submit a map identifying all secondary users of their system and indicating acreage and land use type. Upon permit modification, this map must be updated to reflect changes in secondary users of the diversion and impoundment system.~~

This section is moved to locations in proceeding parts of the rule.

### \* **ADD TO PERMIT DURATION RULE at B.1.(g):**

For independent secondary use permits within a diversion and impoundment system the duration will not exceed the expiration date of the associated diversion and impoundment permit.

### **RULE 40E-21, F.A.C., RULE CHANGE:**

40E-21.651 Use Classes(1)(f)

(f) "Diversion and Impoundment into non-District facilities" means the diversion or extraction of water into non-District impoundments and delivery systems designed for purposes, including but not limited to, maintaining control

elevations in order to provide for groundwater recharge, and to provide water for reasonable-beneficial uses.

#### **Newly proposed change to existing BOR criteria 4.1:**

##### **4.1 Withdrawal Quantity:**

For special districts with withdrawal facilities that supply several individual users, such as diversion and impoundment systems and sub-basins within the Everglades Agricultural Area Water Use Basin which collectively derive their water supply from District operated structures, the water use shall be monitored at the primary withdrawal facilities. Individual surface water users within such systems ~~the special district~~ do not need to submit individual pumpage reports, unless otherwise required by a water shortage order or as a part of a District permit compliance action. ~~unless required by another water use permit.~~ The District advises diversion and impoundment permit applicants, and users within such systems, that retaining accurate records of the types of crops, irrigated acreage, and duration of irrigation of such crops is relevant information for assessing system efficiency. In the event the District determines the diversion and impoundment system is inefficiently using water, then the District, at a minimum, will require implementation of additional monitoring and conservation measures. (Inefficient use of water by a diversion and impoundment permittee includes withdrawals in excess of the permit conditions in a drought condition less severe than a 1 in 10 year drought event.) Such additional actions could include internal surface water quantity withdrawal monitoring and irrigation system efficiency assessment by a mobile irrigation lab.

For those special districts in which water is passed through the project, the permittee may be required to report the volumes of water that flow out of the project if necessary to quantify the water consumed by the project.